

Serial No. 10/680,545

**AMENDMENTS TO THE DRAWINGS**

Please add New Sheet 1/1 to the drawings of the present application which is enclosed with this Amendment A.

### **REMARKS**

The following remarks are in response to the Office Action dated January 11, 2006. Reconsideration and allowance of the application are respectfully solicited.

Applicants' acknowledge the telephonic conference between Examiner Smalley and Jeffrey Morris on February 13, 2006, at approximately 12:20 PM wherein the Patent Office's objections to the application were discussed and proposed amendments to the claims and arguments thereto were proffered by Applicants. The following amendments to the specification and claims are submitted as a result of said conference.

### **1. DRAWINGS**

The Patent Office objected to the drawings under 37 CFR 1.83(a) on the ground that the drawings did not show how the third part was hingedly connected to the first part.

Applicants have added one new drawing sheet (Sheet 1/1) disclosing two figures, FIG. 18 and FIG. 19. (copy enclosed.) The new drawing sheet shows the manner in which third part 59 is hingedly connected to the first part 24. FIG. 18 shows third part 59 in a closed position wherein slotted edge 62 is engaged to rim 22. FIG. 19 shows third part 59 in an open position wherein slotted edge 62 is disengaged away from rim 22. Third part 59 has a portion 61 which is fused to the top surface 40 of first part 24 which forms a hinge 63 to permit the third part 59 to move between an open and closed position.

Applicants' amendment to the drawing does not add new matter to the drawings since there is ample antecedent language in the specification as originally filed to support the subject matter shown in FIG. 18 and FIG. 19. Applicants respectfully request that

the Patent Office withdraw its objection to the drawings in light of the filing of the new sheet of drawing, 1/1.

## **2. - 3. REJECTION OF CLAIMS 18 AND 19**

In view of the new drawing sheet 5 and the language contained in the specification as originally file, it is respectfully submitted that subject matter was described in the specification as originally filed to enable one skilled in the art to understand how the third part is hingedly connected to the first part. Referring to page 25, at line 9, it is stated that "...a third part 59 is shown which is hingedly attached to the first part 24 along edge 31..." Further note that on page 25, line 16, it is stated that the third part may be removed by "tearing it off at hinge along [sic] edge 31." This language shows that the third part is "attached" to the first part and creates a hinge along edge 31 to facilitate an open and closed position of the third part. In further support of applicants' argument that there is sufficient antecedent evidence in the specification as originally filed to support the language in Claims 18-19, reference is made to the dictionary definition of the word "hinge": "a: a jointed or flexible device on which a door, lid or other swinging part turns.<sup>1</sup> Note further that the specification as originally filed states on Page 12, line 19, that the cup lid is made out of a very thin thermoplastic material which is heated over a vacuum mold which softens the material and forms the lid. It is submitted that this antecedent language as contained in the specification would enable one skilled in the art of manufacturing cup lids to understand (1) what the material of the lid is made out of and (2) the process of fusing third part 59 to first part 24. That is, by

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<sup>1</sup> Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc, 1988, at p. 572.

applying sufficient heat and pressure along edge 31, the two parts would fuse together to provide the "hinge".

For the foregoing reasons, it is respectfully requested that the Patent Office withdraw its rejection of Claims 18-19. Claims 18-19 are in condition for allowance.

**4. - 5. REJECTION OF CLAIMS 1-19 AND 34**

Independent Claim 1 has been amended to include a cup lid in combination with a drinking cup. Independent Claim 34 has been canceled. The Patent Office rejected Claims 1-19 and 34 under 35 USC 112 on the ground that the limitation of compartment means being formed between the cup and the lid was unclear because the claims were only drawn to the lid being for use with a cup.

Applicants have amended independent Claim 1 and canceled independent Claim 34 to obviate the Patent Office's rejection under § 112. Claims 1 and 4 - 19 are in condition for allowance.

**6. CLAIMS 1, 2, 5, 8, 10 AND 34 - 35 REJECTED UNDER 35 USC 102(b)**

The Patent Office has rejected Claims 1, 2, 5, 8, 10 and 34 on the ground that the subject matter of the present invention is anticipated by Schram et al US 4,090,660.

The Patent Office has indicated that Claims 3-4, 6-7, 9, and 11-17 would be allowable if rewritten to overcome the rejections under Sec. 112, 2nd paragraph and to include all of the limitations of the base claim and any intervening claims.

Applicants have amended Independent Claim 1 to include the limitations of Claims 2 and 3. It is submitted that newly amended Claim 1 is not anticipated by Schram

since Schram does not teach or disclose the limitations contained in formerly dependant Claim 3.

Schram does not teach or suggest the following elements of amended Claim 1:

a. compartment means formed by the second part and the inner sidewall surface of the drinking cup for bifurcating a portion of the liquid in the cup into one portion and a second portion; (tongue 20 is too small to form a compartment with the inner sidewall surface of the drinking cup)

b. one portion comprising means for facilitating the flow of liquid into the compartment means and the second portion for facilitating the flow of liquid out of the compartment means; (even if the tongue and lid part were to be pushed downward into the drinking cup, it would not form two portions inside of the cup to bifurcate the contents into two parts)

c. aperture means for permitting the liquid contained in the one portion to flow out of the compartment means and out of the drinking cup; (the tongue and lid part cannot form a compartment means)

d. baffle means for substantially shielding the liquid in the one portion from substantial interference with the liquid in the second portion during any lateral movement of the cup thereby any spillage of the liquid out of the cup is substantially minimized; (the tongue and lid portion cannot shield the liquid in one portion from the liquid in the other portion because the structure thereof will not form a compartment and will not stay stationary if inserted into the cup)

e. means on the second part for the downward movement of the second part from a first position wherein the second part is substantially co-planar to the first part, to a second position wherein the second part is non-coplanar with the first part;

f. the one portion comprising means for permitting the ingress of liquid from the second portion into the one portion when the second part is in the second position for permitting the egress of the liquid out of the one portion;

g. a first aperture at the bottom end when the second part is at the second position to permit the liquid to ingress into the channel; (the tongue cannot form an aperture) and,

h. a second aperture at the upper end when the second part is at the second position to permit the liquid to egress out of the channel:

Since Claims 4 - 17 depend from Independent Claim 1, and Claim 1 is not anticipated by Schram, the limitations of Claims 4-17 which depend from independent Claim 1 should be allowable.

**New Claims 37 - 48.**

New independent Claim 37 claims a cup lid apparatus. Claims 38 - 48 depend from independent Claim 37. Schram does not disclose or suggest the following elements of Claim 37:

- a. a first part and a second part comprising biasing means for the movement of the second part away from said second position and towards said third position;
- b. the first part comprising a first section and a second section;

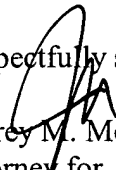
- c. the second section is substantially flat and lies in the first plane;
- d. the first section comprising a concave cross-sectional area when the second part is in the first position;
- e. the second part further comprises a concave cross-sectional area when the second part is in the first position;
- f. the second part comprises a concave cross-sectional area when the second part is in the second position; and,
- g. the first section of the first part comprises a convex cross-sectional area when the second part is moved from its first position.

It is submitted that independent Claim 37 is not anticipated by Schram and is therefore allowable. Dependent Claims 38 - 47 which depend from Claim 37 are likewise allowable since they depend from Claim 37. Therefore, Claims 37 - 47 should be allowable.

### CONCLUSION

For the reasons advanced above, Applicants' respectfully submit that the application is in condition for allowance and that Claims 1, 4 - 19, 35 and 37 - 47 be allowed.

Respectfully submitted,

  
Jeffrey M. Morris  
Attorney for Applicants  
Registration No. 27,458  
410 Castlewood Lane  
Buffalo Grove, IL 60089  
(847) 830-2286

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